

**Kentucky Transportation Cabinet  
OFFICE OF INSPECTOR GENERAL  
Report of Investigation**



**Department of Corrections  
DNA Collection**

**November 2013**



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## EXECUTIVE SUMMARY

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At the request of the Governor's Office, the Kentucky Transportation Cabinet's Office of Inspector General opened an investigation to determine the reasons why the Department of Corrections did not collect Deoxyribonucleic Acid (DNA) samples from every eligible convicted felon as required by House Bill 321, passed in 2009.

The DNA samples are collected and submitted to the Kentucky State Police Forensic Laboratory, which analyzes, classifies, and files the DNA with state and national databases. These databases are accessed by law enforcement for the purpose of identifying, detecting, or excluding subjects in an investigation. The DNA database has been used successfully and frequently by law enforcement officials in the detection and prosecution of felony offenders in Kentucky and other states. Unfortunately, Kentucky, like several other states, has failed to collect all of the required DNA samples, causing the database to be incomplete.

Initial estimates by the Department of Corrections revealed that 6,341, or approximately eight percent, of eligible offenders did not have a DNA sample collected since the passage of House Bill 321, while their records reflected 75,600 samples were collected. With the assistance of the Kentucky State Police Forensic Laboratory and the Administrative Office of the Courts, the Department of Corrections Information Technology Branch determined these initial estimates underreported the number of missed DNA sample collections. Their research determined that approximately 16,000, or 23% of the felony admissions to the Department of Corrections system as of December 31, 2012, did not have DNA samples on file with the Kentucky State Police Forensic Laboratory. Analysis of the Administrative Office of the Courts' records (2010-2012) revealed approximately 1,700 additional felony offenders were required to provide a DNA sample, but were never contacted by the Division of Probation and Parole for DNA collection.

In an effort to determine the reasons for the failure to collect the required DNA samples, over 40 interviews were conducted with a cross-section of personnel from the Department of Corrections and the Division of Probation and Parole. Interviews and meetings were also held with officials from the Administrative Office of the Courts, Kentucky State Police, and Circuit Court Clerk offices. Additionally, other states were examined regarding their protocols, procedures, problems, and remedies pertaining to the collection of DNA samples.

The investigation determined that several reasons, involving multiple levels of management, supervisors, and field personnel in the Department of Corrections, contributed to the failure to collect DNA samples. Arguably, the most significant cause may have been the substantial increase in responsibilities placed upon the Department of Corrections at or near the same



time DNA collections were mandated, which subsequently diminished the priority of DNA collection. Other reasons include the lack of a reliable and readily available DNA sample tracking database, the absence of DNA collection accountability measures and follow-up by staff and field personnel, the shortage of DNA sample collection kits, and occurrences of poor personnel performance with minimal or no corrective measures taken by supervisors and management.

Soon after discovering the missed DNA samples, the Department of Corrections took remedial action by pursuing the collection of missed DNA samples. As of November 26, 2013, the Department of Corrections has collected 5,061 of the missed samples and several accountability measures have been implemented to ensure the timely collection. Currently, a list identifying all offenders required to provide a DNA sample is forwarded to all Division of Probation and Parole District Offices on a daily basis, and supervisors are required to approve all pre-sentence investigations and determine the DNA collection status.

The recommendations in this report focus on the following:

- 1) Enhancing supervisory and field staff accountability for the collection of DNA
- 2) Developing a reliable and accessible DNA sample collection and submission database
- 3) Establishing a DNA sample collection and submission process that requires supervisory approval and oversight
- 4) Establishing procedures which require a collaborative effort between the Division of Probation and Parole and correctional facilities to ensure DNA sample collection
- 5) Ensuring the requirements of House Bill 321 are documented in the court record and are known by all who share in this responsibility
- 6) Improving DNA sample submission and processing at the Kentucky State Police Laboratory
- 7) Assessing the workload of the Division of Probation and Parole
- 8) Improving technological capabilities

The Department of Corrections' leadership and staff have responded to this investigation by providing access to all records and personnel as requested, and have acknowledged many of the lapses and deficiencies that have been identified. More importantly, they have expressed and demonstrated a commitment to evaluating their performance in DNA collection, submission, and accountability from all levels in their organization for the purpose of developing and implementing comprehensive corrective measures.



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## BACKGROUND

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On July 24, 2013, **Mary LASSITER**, Secretary of the Governor's Executive Cabinet, called **Cindy JAMES**, Inspector General of the Kentucky Transportation Cabinet (KYTC), to request the KYTC Office of Inspector General (OIG) investigate why the Department of Corrections (DOC), Division of Probation and Parole (DPP), failed to collect DNA samples from approximately eight percent of the convicted felons under their supervision, as required by House Bill 321 (HB 321).

JAMES and **Mike DUNCAN**, Deputy Inspector General, met with **J. Michael BROWN**, Secretary of the Justice and Public Safety Cabinet, for the initial briefing. BROWN reported that during a review of reports, **LaDonna THOMPSON**, Commissioner of the DOC, noted a discrepancy between the number of felons required to provide a DNA sample and the number of DNA samples collected. BROWN provided a press release that would be referenced and distributed the following day at a press conference where he announced that DOC had become aware of the missed DNA samples (**EXHIBIT 1**). BROWN provided detailed charts depicting that out of 81,920 admissions (convicted felons) to the Corrections system since HB 321 took effect, DNA samples had not been collected from approximately 6,341 inmates, or 7.74% (**EXHIBIT 2**). Of those inmates, 2,420 were still under the DOC's supervision as either active or released inmates, and 3,921 of those offenders had satisfied their sentence and were no longer under DOC supervision. BROWN provided a sample of a letter the DOC was sending to all convicted felons, both supervised and unsupervised, not currently incarcerated who had not provided a DNA sample. This letter directed them to report to their Probation and Parole Officer (PPO) to schedule their DNA sample collection date and time (**EXHIBIT 3**).

On July 25, 2013, JAMES, DUNCAN, and **David OWEN**, OIG Investigator, met with the following DOC staff: THOMPSON, **Kimberly POTTER-BLAIR**, Deputy Commissioner, **Rebecca CARTER**, Administrative Branch Manager, Central Probation and Parole Region, and **Steve TURNER**, Deputy Compact Administrator for the Probation and Parole Interstate Compact Office. The DOC staff explained that 2008 House Bill 683 (HB 683) required DNA samples be taken from all felons convicted on or after July 1, 2008, and all felons who were in state or local custody on July 1, 2008, regardless of conviction date, for submission to the Combined DNA Index System (CODIS), a national database maintained by the Federal Bureau of Investigation (FBI). The DOC began taking steps toward implementation. In February 2009, DNA collection was suspended due to a court ruling that cited HB 683 as unconstitutional due to procedural processes when the bill was passed.

On March 27, 2009, HB 321 took effect which allowed any DNA samples previously taken to be maintained and used. It also repealed, amended, and reenacted KRS 17.170 requiring the collection of DNA samples from all adults convicted of a felony on or after March 27, 2009, and juveniles at least 14 years of age at the time of the commission of specific felony offenses (**EXHIBIT 4**).

KRS 17.170 (4) also specifically directed “Any person who is required to provide a DNA sample pursuant to subsection (2) of this section and who is released from custody upon sentencing or adjudication shall immediately report to the local probation and parole office and shall have a DNA sample collected by authorized personnel.”

Timeline for DNA Collections:

DOC officials were asked to provide a timeline of steps taken to implement the new law requiring DNA sample collection from felons (**EXHIBIT 5**). Excerpts are as follows:

*5-28-2008 – P & P Director Lee VanHoose sends email correspondence to all Probation and Parole personnel explaining upcoming legislative changes, including required DNA collection. The email noted during that [sic] the week of June 16, 2008, officers from each district will receive training on the DNA collection process which will involve collection of DNA cell samples by swab.*

*6-2008 – DNA implementation plan developed. DNA information distributed to P & P Districts by Program Administrator. Program Administrator travels to each district to provide DNA information at district meetings.*

- *DNA Overview: From Beginning to End – The process of DNA Collection PowerPoint.*
- *Offenders who must submit to DNA testing (include conviction date, pre-trial, sex offenders, and out of state offenders.) Verify picture ID on every offender. Collection at PSI interview. Update in KOMS on the demographic screen.*
- *Kit collection procedures and start date of 8-1-2008.*
- *Correspondence instructing officers how to access KSP’s secure website to check DNA database.*

*6-17-2008 – 6-22-2008 – Train-the-Trainers for DNA collection complete. Train-the-Trainers officially trained regionally by KSP staff through the dates of 6-17-2008 - 6-22-2008. Each district has at minimum two certified DNA Trainers.*

*6-27-2008 – 8-1-2008 - Certified DNA trainers conduct district wide training with each Probation & Parole district. Officers and investigators review a KSP video and conduct a*



*DNA swab on each other. Staff complete and submit KSP 140 form to Probation & Parole Central Office and KSP 141 form to KSP.*

*7-1-2008 – P & P Director Lee VanHoose sends memorandum statewide to all Probation & Parole personnel explaining DNA collections for felony offenders on or after the conviction as of 7-15-2008 shall submit a DNA sample at the time of the PSI interview. DNA collection shall be noted in the comment section of the PSI. Officers shall verify DNA collection on newly released parolees and shall collect at the intake interview, if needed. All DNA collection shall be entered in the Kentucky Offender Management System (KOMS).*

*7-25-2008 – Adult Institutional staff receive DNA training. Instructions from Adult Institutions Director Jim Erwin to collect a DNA sample from each inmate released or paroled from the institution.*

*7-28-2008 - Memo from P & P Program Administrator to all Probation & Parole personnel explaining that DNA testing will begin statewide on 8-1-2008. Also begins mass DNA collections at KY institutions.*

*2-25-2009 – File No. 08-CI-1088 Franklin Circuit Court Final Judgment ruling DNA collection unconstitutional due to procedural processes when the bill was passed. Motion for Summary Judgment granted.*

*2-27-2009 – Probation and parole Director Lee VanHoose advised Probation and Parole staff to suspend DNA collection due to HB 683 being ruled unconstitutional and suspended.*

*3-27-2009 – KRS 17.170 (HB 321) effective this date re-instating requiring DNA collection of any offenders convicted of a felony on or after March 27, 2009.*

*3-27-2009 – Legislative Update covered at District Supervisors & Assistants Meeting. Legislative update handout includes HB 321 which replaces a portion of HB 683 from 2008. KRS 17.169 repealed and re-enacted regarding DNA collections.*

*4-6-2009 – Email from Director VanHoose to Supervisors and Assistant Supervisors alerting that HB 321 was signed into law including an emergency clause relating to DNA. Staff directed to resume DNA testing of all felony offenders.*

*2009 - DNA added to New Officer On-The-Job Training Modules.*

*12-14-2010 – On-The-Job Training Modules revised to expand DNA section. New Officer training includes: 1) review KSP video, 2) review summary DNA collection PowerPoint, 3) review of applicable KRSs and collection requirements, 4) entry into the offender management system, 5) swabbing procedures, collection, and administrative procedures. The revised training modules were piloted in two districts in November 2010 before being released statewide.*



5-4-2012 – Policy change effective from LRC adding DNA changes to CPP 27-12-03 Initial Interview & Intake of New Case (**EXHIBIT 6**) and CPP 28-01-03 Presentence, Postsentence and Other Investigation Reports (**EXHIBIT 7**), Previous policy revision was dated 5-26-05.

DPP Staff and Attrition:

The DOC includes a number of divisions and offices (**EXHIBIT 8**). The DPP includes four branches representing different geographical sections of the state. During the 2013 fiscal year, the DPP had an average of 567 Probation and Parole Officers (PPOs) and Probation and Parole Investigators (PPIs). The rate of turnover during the last four fiscal years is as follows:

<u>Time Period</u>	<u>Average Number of Employees</u>	<u>Terminated or Separated</u>	<u>Percent Turnover</u>
July 2009 – June 2010	479	46	9.6%
July 2010 – June 2011	467	72	15.4%
July 2011 – June 2012	502	62	12.4%
July 2012 – June 2013	567	65	11.5%

Specific duties include:

- Supervises and counsels a caseload of clients placed on probation or parole by the courts or the parole board.
- Prepares Pre-Sentence Investigation (PSI) reports for the courts and parole board.
- Investigates/recommends/submits employment and home placements for parolees.
- Maintains detailed records of contacts with clients, clients' family, and clients' employer.
- Makes referrals to other agencies.
- Monitors supervision and restitution fees.
- Makes arrests/transporters prisoners when required.
- Attends training sessions.

## NATIONAL PERSPECTIVE ON DNA COLLECTION:

### Historical:

In the late 1980s, groundwork for a national DNA database was laid by the federal government, and states began passing laws requiring offenders convicted of certain offenses to provide DNA samples. Initially, states passed laws to collect samples only from persons convicted of certain sex offenses and serious violent crimes. All 50 states now require DNA collection from anyone convicted of a felony offense. Twenty-eight states passed legislation authorizing DNA collection prior to conviction. About one-half of these states authorize collection from persons arrested for any felony crime, and the other half limits collection to a subset of felonies typically involving violence, sexual assault, or serious property crimes. Seven states who collect DNA from arrestees also collect from individuals arrested or charged with select misdemeanor crimes (The Urban Institute, Justice Policy Center, *Collecting DNA at Arrest: Policies, Practices and Implications*, Final Technical Report, May 2013/Julie E. Samuels, Elizabeth H. Davies, Dwight B. Pope). Each year, states expand their convicted offender databases to include more classifications of convicted offenders. California is the most expansive state, collecting DNA samples from all convicted felons and offenders convicted of misdemeanors.

### Collection Responsibility:

Responsibility for DNA collection is sometimes established by statute. Of the 17 states that designate a specific type of agency, the vast majority designate the arresting agency, booking agent, detention center, sheriff, or jail staff as the primary collector (Forensic Magazine Collecting DNA from Arrestees, June 24, 2012/interim data from The Urban Institute Study by Samuels, Davies, Pope and Holand). Some states, like Kentucky, assign the responsibility of DNA collection to probation and parole officers whether or not the offenders are placed under supervision. In other states, PPOs are only responsible for collecting DNA samples from offenders placed under their supervision, while corrections personnel are responsible for collection upon incarceration.

### Problems Identified:

Kentucky is not the first state to discover problems with its DNA sample collection and data entry process. In 2002, Virginia passed a law requiring DNA samples be taken from all convicted felons and those arrested for violent, sexual, or theft crimes. In 2005, the director of the crime lab responsible for maintaining the DNA database discovered missing DNA samples for approximately 3,149 of the 13,000 registered sex offenders, 24% of its sexual offender registry. At the time, the director speculated that a number of factors contributed to the missing profiles, including failure of some prisons and jails to collect the samples as required. A year later, after determining that thousands of felons' DNA samples were missing from the DNA database, Virginia launched a massive review of the program to determine how many felons' profiles were missing and why. They identified a number of



reasons for the missing profiles. These included failure to collect the samples, clerical error, and a lack of ability of the computer systems of the various agencies involved to communicate with each other (Post Now/The Breaking News Blog, "[Felons' DNA Missing from Va. Database](#)", Candace Rondeaux, Washington Post Staff Writer, December 21, 2006).

Two years later, Nevada and Illinois discovered thousands of missing samples from their DNA databases. In 2008, a legislative audit sharply criticized the Nevada Division of Parole and Probation for failure to secure required DNA samples. The audit found the division did not regularly utilize its Past Due DNA Report, consequently making an analysis of a report identifying more than 640 offenders "*unreliable*." Either no DNA sample was collected or the data was not correctly entered into the DNA database (Audit Highlights of Legislative Auditor Report on the Department of Public Safety, Division of Parole and Probation, issued February 29, 2009). The audit report also noted data entry errors diminished the usefulness of the Past Due DNA Report for managerial oversight. They determined the limited use of the Past Due DNA Report was due, in part, to a lack of training and no access to a user manual. Consequently, recommendations focused upon increased training and making available the instructional resources necessary to assist those responsible for DNA collection and data entry. The Nevada Probation and Parole chief cited lack of sufficient manpower and resources as a primary reason for the missing samples.

In Illinois, the pool of offenders requiring DNA samples significantly increased following the 2002 passage of the "All Felons Law," causing many required sample collections to fall between the cracks. Upon determining thousands of DNA samples were missing, the Illinois Attorney General convened a DNA Accountability Project team to identify the reasons for the missing profiles. The team was also tasked with developing strategies to address the problems identified. After the team identified a number of problems, including failure to collect the specimens along with not having enough trained staff or a sufficient supply of DNA test kits, they made recommendations to strengthen the laws and to improve oversight and reporting.

#### Funding:

The National Institute of Justice (NIJ) DNA Initiative calls for increased funding, training, and assistance to federal, state, and local forensic labs, police, medical professionals, victim service providers, and to prosecutors, defense lawyers, and judges to ensure that this technology reaches its full potential to solve crimes, protect the innocent, and identify missing persons. Financial assistance to states is in the form of federal grants. In fiscal year 2011, approximately three-quarters of the funds appropriated by Congress to NIJ went directly to crime laboratories and police departments to reduce the backlog of DNA evidence, increase laboratory capacity, and solve cold cases. (Note: The Kentucky State Police Forensic Laboratory (KSP Lab) receives annual grants from this program. In fiscal year 2012, the KSP Lab received \$616,000 from the NIJ-DNA Backlog Reduction Program to



cover capacity enhancement for their offender and case work section and for DNA testing for offenders and casework samples. Approximately 25% of grant money goes directly to purchase offender DNA kits and DNA testing of offender samples.)

#### Trend to Collect DNA at Arrest:

In January 2013, the President signed into law the Katie Sepick Enhanced DNA Collection Act. The goal of the federal legislation is to offer an incentive to states that do not have DNA collection processes for arrests. It authorizes the US Department of Justice to award grants to cover up to 100% of a state's first-year cost of implementing a collection program. When Sepick was murdered in 2003, New Mexico did not collect DNA until a defendant was convicted. Her killer was arrested on unrelated charges that same year, but was not connected to Sepick's rape and murder until his conviction for other crimes in 2006 (Texas-New Mexico Newspapers Las Cruces Sun-News, President Obama signs Katie's Law, which aims to expand DNA collection nationwide, Milan Simonich, Santa Fe bureau chief of Texas-New Mexico Newspapers, posted January 10, 2013).

Legislation to collect DNA samples at arrest has been introduced in Kentucky, but it has never passed.

#### IMPORTANCE OF DNA DATABASE:

The state and national DNA databases have proven to be valuable tools for law enforcement in solving crime and detecting or eliminating suspects of crimes. The KSP Lab maintains statistics on the number of times they are presented with DNA evidence and are able to identify the offender associated with that DNA. From 2008-2012, the KSP Lab has identified 716 DNA samples because they "hit", i.e., matched, a DNA sample in the database. Of those, 277 were national offender hits which include both Kentucky offenders matching cases in other states and offenders from other states matching Kentucky cases. There were 439 hits where Kentucky cases were linked to Kentucky offenders (**EXHIBIT 9**).



# REPORT OF INVESTIGATION

Investigators: Cindy JAMES, Mike DUNCAN  
David OWEN, Rick YETTER, Paula FREEMAN





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## INVESTIGATION

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In order to gain an understanding of the DNA sample collection process and the circumstances or factors that may have caused the failure to collect the required DNA samples, interviews were conducted with a cross section of the DOC and DPP personnel including the Commissioner, former directors, branch managers, supervisors, assistant supervisors, PPOs, PPIs, and the information technology staff. The investigation also included several meetings with personnel from the Administrative Office of the Courts (AOC), Circuit Court Clerks (CCC), and the Kentucky State Police (KSP).

### Interviews with PPOs, PPIs and DPP Supervisors:

Between August 6, 2013 and September 11, 2013, 30 DPP field and staff employees were interviewed, including six district supervisors, five assistant supervisors, 16 PPOs and three PPIs. Of the 16 PPOs, nine served as fulltime Pre-Sentence Investigation (PSI) writers at some point in their career between March 27, 2009 and July 31, 2013. PPOs from three eastern districts (D7, D8, and D15), two central districts (D6 and D20), and one western district (D5) were selected to be interviewed. A district with a high number of missed DNA samples and a district with a low number of missed DNA samples were specifically selected for interviews. PPOs/PPIs who appeared to be performing above average regarding DNA collections and PPO/PPIs who appeared to be performing below average were also interviewed.

Each interview was recorded and summarized and will be maintained in the case file. The following is a summary of the interviews:

The most prevalent reason expressed as to why PPOs/PPIs were unable to collect DNA samples was related to not having direct contact with the offender. Nearly everyone interviewed described this as a challenge and hindrance to their responsibility to collect DNA. The circumstances varied. Oftentimes the offender was living or being transferred out of the supervising PPO's district, was lodged in another jail, or was residing out of state or a significant distance from their district. In many of these cases, the PSI was waived and/or the offender was placed on unsupervised probation or diversion. The DPP was not always notified of the conviction resulting in no contact between the PPO/PPI and the offender.

One PPO described being in court when an unscheduled felony plea agreement was entered. She overheard the Commonwealth's Attorney inform the offender he was finished and had no obligation to see the DPP. She was

able to join the conversation, correct the instructions, and collect the DNA. The offender lived out of state and had she not been present, his DNA sample would have been missed.

The DPP becomes aware of felony convictions in a variety of ways depending on the location of the district and the court. The PPO/PPI is frequently in the courtroom when the plea is entered. If not present, the PPO/PPI learns of the felony conviction through courthouse mail, conversation with court officials, the local newspaper, the Internet, or friends who work in the courthouse. Oftentimes the DPP learns about the conviction too late to effectively prepare a PSI.

The following are examples where DNA samples may not have been collected because the offender did not have direct contact with the DPP.

- An offender is placed on unsupervised probation by the court. The judge does not order a PSI. The offender is never entered into the DOC Kentucky Offender Management System (KOMS).
- An offender is placed on unsupervised pretrial diversion by the court without a PSI. The offender is never entered into KOMS.
- An offender is ordered to drug court without a PSI being ordered. The DPP does not supervise drug court offenders.
- An offender is conditionally discharged and credited for time served by the court without a PSI being ordered. The offender is never entered into KOMS.
- An offender enters a guilty plea on an irregular court day and a PSI is not ordered. The DPP may not be notified or become aware of the conviction.
- Some offenders are subject to deportation. The offender appears in court, the PSI is waived and the offender is probated directly to the U.S. Immigration & Customs Enforcement (ICE). The offender goes directly into ICE custody and the DPP may not have access to the offender for DNA collection.
- Interstate Agreement on Detainer or similar circumstances: If the offender is in another state's custody and has pending felony charges in Kentucky, the offender is brought to Kentucky for sentencing and is never technically placed in the custody of the Kentucky DOC. Due to the inmate being immediately returned to the other state for completion of the out of state sentence, the offender may never have contact with the DPP.



- The offender is in custody serving a sentence on a non-DNA qualifying offense, but has a pending qualifying felony offense. The offender goes to court, pleads guilty to the felony offense, but the PSI is waived. He is returned directly to DOC custody and never comes into contact with the DPP for DNA collection.
- The offender fails to show up for the PSI interview.
- The offender is probated, the PSI is waived and the offender fails to report to the DPP as directed by the court.

A DPP workflow chart was provided which depicts some of the aforementioned examples (**EXHIBIT 10**).

Interviews revealed the occurrences listed above would require a PSI to be completed in most circumstances. If the DPP becomes aware of the plea, then efforts would be made to complete the PSI and collect DNA. Occasionally, PSI interviews are conducted over the phone and DNA samples are not collected.

Two of the AOC's forms identified as the Judgment and Sentence on Plea of Guilty (AOC-445 REV 2-10) (**EXHIBIT 11**) and Order Granting Pretrial Diversion of a Class D Felony (AOC-345 REV 2-09) (**EXHIBIT 12**) are part of the official court record. However, they do not have a section which addresses the requirement of DNA collection on felony offenses which are not classified as sexual offenses. Felony sexual offenses and DNA collection is specifically noted on AOC form 445.

PSIs on pretrial diversion cases for the Somerset Office in District 20 (D20) were suspended. The duration of time for this suspension could not be determined. An audit conducted on a PPO in D20, on March 15, 2011 contains the following comment, *"...the completion of waived Pre-Trial Diversion PSI's for the Somerset office have been temporarily suspended by Director Carman and Branch Manager Barnes"* (**EXHIBIT 13**). (Note: In a follow-up interview with **Tim CARMEN**, former Division Director of the DPP, he recalled the suspension was due to the judges sentencing offenders to pre-trial diversion without a PSI. Because of this and the large PPO/PPI workload, he suspended the PSI and asked the PPO/PPI to conduct a records check or client profile on offenders instead of the PSI. However, this did not alleviate their responsibility to collect DNA.)

PPOs/PPIs also missed DNA collections due to the limited number of available fingerprint ink pads and DNA sample collection kits (DNA kits).

PPOs/PPIs from the eastern and central districts indicated there was a shortage of DNA kits at various times over the last four years. At times, the entire district, including the satellite offices, were out of DNA kits. Several district supervisors stated they were not always promptly notified when a satellite office was out of kits. Steve TURNER, who was responsible for supplying the DNA kits, always responded to their requests for more DNA kits when they were available.

Nearly every PPO/PPI stated there were times they either forgot the DNA kit or did not bring an adequate number of DNA kits with them to conduct all of the DNA collections required.

At times, there was only one fingerprint ink pad per district office or satellite office. If a PPO/PPI was out of the office with the fingerprint pad and another PPO/PPI was completing a PSI at another location, they would not be able to collect DNA since fingerprints are required at the time the DNA sample is collected (**EXHIBIT 14**). The district supervisors who were familiar with this problem indicated the fingerprint pads were difficult to acquire and could not be ordered like other supplies. One PPO from D15 stated he purchased several ink pads from Walmart to use at his office.

DNA collection training on how to obtain a DNA sample and complete the paperwork was generally considered as being satisfactory by the majority of those interviewed. Many thought there could have been more emphasis on the importance of collecting DNA and the fact it was a law and not just a DPP policy. Many of the PPOs/PPIs did not recall seeing a training video or a PowerPoint presentation on DNA collection.

Several PPOs/PPIs felt there was poor communication between supervisory personnel and field staff. There was a misconception that DNA would be collected by someone else if it was missed during the PSI interview. At least one PPO at D5 did not collect DNA from individuals who were incarcerated and made a notation to this effect in the PSI (**EXHIBIT 15**). Additionally, there was confusion at different times over whether DNA should be collected from felony offenders granted pretrial diversion.

Most were unaware of the time period from the hire date until a PPO/PPI is trained to collect DNA. A PPO in D8 indicated he had at least nine samples rejected because he had not been trained prior to collecting DNA samples. He was hired in September 2012, and was not trained to collect DNA samples until January 2013.



The KSP Lab provided a list of 149 samples rejected because the collectors had not been trained; therefore, they were not authorized to collect DNA based on 502 KAR 32:010 (**EXHIBIT 16**). The following three officers accounted for 44 missed/rejected DNA samples because the DNA sample was taken prior to them receiving the required training.

Caldwell	hired 08/16/2011	DNA trained 12/12/2011
Marcum	hired 08/16/2011	DNA trained 12/12/2011
Hall	hired 09/01/2012	DNA trained 01/29/2013

There were a number of other samples rejected by the KSP for a variety of reasons. The following is a summary of the reasons samples were rejected during the period 2008 through August 23, 2013:

Reasons for rejection	# of Samples
Officer not qualified	149
Sample card was detached from paperwork	31
No collector info	183
No fingerprints	96
No sample collected	28
No qualifying offense	137
Offender signature did not match paperwork	16
No offender info	4
Multiple issues (no prints/no sample/no collector/other info incomplete)	33
Miscellaneous (Paperwork or collection error)	2
Sample error - not from person listed	4
<b>TOTAL</b>	<b>683</b>

The DPP has been tasked with numerous additional duties over the past several years, and many of the same tasks are more time consuming than they were previously. The DPP uses a new risk/needs assessment tool called Level of Services/Case Management Inventory (LSCMI) that requires up to one and one-half hours longer than the previous risk assessment. The new case management system is also more complicated and time consuming.

A Job/Task analysis was completed by staff at D6 in response to the recent missed DNA problem (**EXHIBIT 17**). The PPO/PPI has a 37.5 hour week. The analysis indicates job tasks performed by the PPO/PPI should take in excess of 60 hours. Supervisors, PPOs, and PPIs at each district indicated they were overwhelmed with current workload requirements.

A PPI from D5, who was reported to have completed 510 PSIs during the last year (about 42 PSIs per month) while missing only six DNA collections, stated she felt as though she was more efficient concerning the DNA collection because the other fulltime PSI writers were PPOs and had additional responsibilities that she did not have. She had approximately one year of experience with the DPP and she missed fewer DNA collections than the other fulltime PSI writers at D5.

Some of the responsibilities identified as being significant and time-consuming aspects of the job include: ensuring DOC inmates are released on time from local jails, the Home Incarceration Program, offenders who are referred to in-patient treatment programs, the Sex Offender Registry, and offenders on Mandatory Reentry Supervision. While most PPOs agreed the offender-to-officer ratio has decreased over the past several years, they believe their workload has increased significantly.

Most interviewees indicated there was some emphasis placed on collecting DNA samples and it was stressed to some extent by district supervisors and assistant supervisors. It was discussed several times at staff meetings, and they were periodically reminded to collect DNA. (Note: Copies of monthly and quarterly district meeting minutes revealed DNA collection was on the agenda.) However, they felt other job tasks and responsibilities took priority. Many thought there was minimal or inadequate emphasis placed on DNA collection. They believed reducing the expense of paying for DOC inmates housed in county jails and getting the PSI to the judge on time were a higher priority than ensuring DNA was collected.

Case review audits are tools used by assistant supervisors to evaluate the PPO's/PPI's performance on cases and/or investigations. They are also referenced by the district supervisors who complete the interim and annual evaluations. Each year, a total of ten cases and/or investigations are randomly selected for review. The form identifies the important aspects of the PPO's/PPI's job, including tasks required by law and DPP policy and procedure. The audits performed in 2009, 2010, and 2011 did not have DNA collections listed as criteria for evaluation which appear to indicate the lack of emphasis and accountability regarding DNA collection (**EXHIBIT 18 and EXHIBIT 19**). Supervisors completing these audits followed the audit criteria and most supervisors did not determine if DNA was collected on the offender.

Some supervisors interviewed from D7 and D15 may have referenced DNA collections in the "Other Substantial Issues" section of the form; however, there was no standard set for an amount of points to be deducted. Audits



reviewed reflected anywhere from two to ten points were deducted because DNA was not collected. There were four mandatory components of the investigation audit during these years. If the PSI did not contain one of the following, the investigation automatically failed the audit:

- Investigation submitted by due date
- Contains a proposed supervision plan
- Investigation uploaded to KOMS
- Recommends alternative sentences

The audit form criteria was revised in 2012 to include DNA collection (**EXHIBITS 20, 21 and 22**). The point standard for DNA collection on the case audit was: Exceeds = 15, Standards Met = 10, Standards Not Met = 0 and Incomplete = -5. The point standard for DNA collection on the investigation audit was: No = 3, Yes = 7. Investigation audits focus on the PSI, whereas case audits focus on the offender. Although this revision included DNA collection, many people interviewed felt it was a poor audit form and they did not understand the scoring. The following are the three mandatory components of the investigation audit for 2012:

- PSI and other assigned documents submitted by the assigned date.
- PSI contains a proposed supervision plan.
- PSI recommends an alternative sentence (when permitted by the court).

The above audit form and criteria appear to have placed more emphasis on submitting the PSI by the due date when compared with DNA collection, as has been suggested by those interviewed. (Note: This audit form reflects that three points are awarded when DNA has not been collected.)

There was another revision of the audit forms (currently being used) at the beginning of 2013 (**EXHIBITS 23 and 24**). In this revision, if DNA is not collected, one point is deducted on the audit. Most interviewees liked this audit tool and felt it was a good revision. Those who were familiar with the audit criteria used from March 2009 until the end of 2011 felt DNA collection should have been added to the audit sooner. There are no mandatory components contained in the current audit.

None of the PPOs/PPIs interviewed have been disciplined for failing to collect required DNA or recall others being disciplined. Most supervisors interviewed did not review each PSI to determine the status of DNA collection.

When case audits determined DNA was not collected, the PPO/PPI was typically given a timeframe to correct the deficiency; however, these deficiencies were not always corrected. For example, a D15 employee's audits from August 10, 2009 to May 1, 2013 revealed 13 of his cases or investigations reflected there was no DNA collected. Currently, nine of the offenders still have not had their DNA collected per the KSP Lab database, Barcode Evidence Analysis, Statistics and Tracking (BEAST). In the case of a D7 PPO's audits from December 6, 2010 to September 12, 2012, 19 of her investigations reflected there was no DNA sample collected. Five of the offenders did not have their DNA collected until the recent missed DNA problem was discovered and seven still have not had their DNA collected.

On September 5, 2013, **Trent VANMETER**, District Supervisor, D5, provided an email dated April 18, 2012, which was sent from Steve TURNER to the four DPP branch managers (**EXHIBIT 25**). TURNER copied VANMETER and **Michael BOLCAS**, the former assistant director with the DPP, the subject title of the email was "*DNA Collection.*" The email contains an Excel attachment with a list of approximately 8,600 names of offenders whose DNA status is "*required, but not tested yet*" in the KOMS. The email states the officers need to verify the offenders' DNA status and update the offender profile in KOMS. Other than VANMETER, none of the other district supervisors, assistant supervisors, or PPOs/PPIs interviewed were aware of this email. VANMETER was not sure what happened concerning this email, and he could not find any other emails indicating a response or follow up.

On September 20, 2013, DOC forwarded to the OIG an additional list of offenders whose DNA had not been collected. This list was compiled by comparing offenders whose DNA status was marked in KOMS as having been collected but was not in the BEAST database as of 08/13/2013.

One PPO from D7 accounted for 87 offenders on this list. Her explanation was she must have selected the wrong option in the dropdown menu of the DNA status in KOMS. She explained there are four options concerning DNA collection in KOMS. They are: "Not Required," "Required and has been Tested," "Required, but Not Tested Yet," and "Requirement waived by Court." She pointed out the options "Required and has been Tested" and "Required but Not Tested Yet" are very close in proximity which may have caused her to check the wrong option. Since the missed DNA problem was discovered, she realized she selected "Required and has been Tested" on numerous offenders, according to KOMS, but the DNA was not in the BEAST database. Conversely, she believes she has indicated in KOMS she has not collected DNA, but the DNA was actually collected. She assumes she must



have selected the wrong option in these cases. She knew of at least two errors where her samples were rejected by the KSP Lab. She expressed concern that completed DNA kits may have been lost or misplaced in transit from D7 to the KSP Lab. She thought it would help if the DNA options for “taken” and “not taken” were not so close together in the dropdown menu.

Another PPO on the list from D15 accounted for 136 offenders reflecting collected but were not in the BEAST database. His explanation was he usually took the offender’s word for whether his DNA had been collected. For example, if an offender told him his DNA was taken two years ago at Roederer Correctional Complex, he would make up a date to enter in KOMS and change the DNA status to reflect their DNA had been collected. He stated he may have also identified the DNA status as collected if he had intentions of getting the DNA sample on a later date. On one occasion, he believes there were a substantial number of his completed DNA kits lost. He explained it was during the Christmas holiday several years ago. He left about 20 completed DNA kits on his desk and when he returned to work, they were gone. He thought they may have fallen on the floor and the cleaning crew threw them away. He did not feel there were any significant problems when checking the dropdown box indicating whether or not DNA was collected.

There were various suggestions on how to improve DNA sample collections. The majority of those interviewed believe steps have already been taken to improve the process. The current revision of the case audit criteria is an important reminder that DNA is required. The lists of offenders requiring DNA sample collection currently being sent from Central Office is very helpful. Supervisors now review all PSIs for the purpose of determining the status of DNA collection. Several interviewees agreed, if these policies had been in place or enforced when the DPP began collecting DNA, they would not have missed as many DNA collections. The following are other suggestions made by PPOs/PPIs, supervisors, and assistant supervisors.

- Currently, the PPO/PPI is alerted in KOMS when a violent offender’s profile is accessed. KOMS should be updated to automatically “alert” the PPO/PPI that the offender is required to submit a DNA sample when their record is accessed in KOMS.
- KOMS should be updated so PSIs are required to be approved by a supervisor before they can be created and printed (much like the violations reports).



- The law should be changed and DNA samples should be collected at the time of arrest, along with fingerprints and photographs.
- DPP staff or someone from AOC, with the responsibility of collecting DNA, should be assigned to the court anytime a plea is entered resulting in a felony conviction.
- Supervising PPOs should not be required to complete PSIs.
- The courts should be educated concerning the DPP role and responsibilities concerning the PSI process and DNA collections. AOC should change the plea and pretrial diversion agreements to contain language about contacting the DPP for DNA collections.
- Put follow-up DNA collection responsibilities in place when DNA is missed during the PSI.
- Ensure correctional institutions check for DNA collection before an offender is released.

#### Interviews with DPP Former Directors, Current Managers, and DOC Staff:

Interviews were conducted with the DPP management staff including the following four Branch Managers: **Renee MANESS**, **Mark DAVIDSON**, Rebecca CARTER and **Gary BARNES**. Also interviewed were **Lee VANHOOSE**, the former director of the DPP (from August, 2005 to August 2010), Steve TURNER, Tim CARMEN, the former director of the DPP (from August, 2010 to April 2013), and LaDonna THOMPSON, DOC Commissioner. The interviews were recorded and summarized and will be maintained in the case file. A summary of the interviews follows:

The DPP branch managers have responsibility for a specific region in the state. A region normally encompasses five district offices which are supervised by the district supervisor and assistant supervisor. Due to recent retirements, one of the branch managers is currently responsible for ten district offices. Branch managers supervise and assist the district supervisors and assistant supervisors, which include providing direction on operational issues, personnel matters, and ensuring the DPP policies, directives, and information from Central Office are distributed to the field personnel.

The branch managers felt the DOC administration emphasized the importance of collecting DNA samples, and the subsequent training and implementation of the program was very good. However, once implemented, the

accountability, follow- up, and priority of DNA collections suffered as the result of the increased responsibilities placed on the DPP and PPOs/PPIs. Branch managers commented on the DPP's responsibility to collect DNA, *"...it being a high, high, priority with us, no, no, until this was discovered what, late May, early June, it wasn't. It was a part of the PSI process and in working through the PSI process our goal is to get that report to the judge on time."* Another comment was, *"It was the law and we should not have allowed this to happen. It's another duty which seems to have joined the plethora of others that we've been given over time and as I have told you, I don't believe our staffing ratio has kept up with all the different hats we are now wearing."*

When asked how the DPP tracked DNA collections, the branch managers cited the PSI and the KOMS report as the most reliable data for determining DNA status. Supervisors were not required to review the PSI until it became mandated around November 2009, when the American Correctional Association (ACA) clarified that accreditation required all PSIs should be reviewed by a supervisor. (Note: The investigation determined that although the PSI was required, it was not always reviewed by the supervisor.) Prior to this, a random review of a sampling of the PSIs by the supervisor was the practice. HB 321 and DOC's DNA collection responsibility began in March 2009. Additionally, although accreditation required the supervisor to review the PSI, in order to determine the DNA status of the offender, the reviewer had to access the KOMS demographics section of the PSI, which involved navigating through multiple computer screens.

When asked what caused or contributed to the DPP's failure to collect DNA from felony offenders, the branch managers felt it could not be explained or identified by one single circumstance or factor. They cited multiple contributing factors or circumstances such as:

- Not having an adequate supply of DNA test kits available for the PPOs/PPIs
- The PPOs/PPIs forgetting to take the DNA kit to the interview with the offender after having to travel a significant distance to meet with the offender, which negated the possibility of returning to obtain the DNA kit or returning to collect the sample
- PPO/PPI turnover which required cases needing DNA collection to be reassigned to another PPO/PPI and failing to ensure its collection



- PPOs/PPIs adherence to priorities established by the judge, which meant more emphasis placed on the prompt submission of the PSI rather than DNA collection
- The judge/court system's failure to require the offender to report to the DPP for DNA collection
- The lack of manpower coupled with a significant increase in the DPP and PPO/PPI responsibilities as the result of the passage of HB 463, the Public Safety and Offender Accountability Act of 2011. The legislation required a risk/needs assessment in all phases of the system to determine program needs in prison, supervision level on probation and parole, and parole suitability
- The assumption by the PPO that another co-worker or correctional institution would collect the DNA
- Restricted PPO/PPI access to the offender due to pending federal charges
- Not having a reliable database readily available to determine the status of the DNA collections
- DNA collection was perceived as an important task by the PPO/PPI and supervisors, but it was not the most important task

Two important facts indicate insufficient accountability and oversight regarding DNA collections. The branch managers describe that in order to determine the status of DNA collected on offenders, the supervisor or assistant supervisor must review the PSI and access the demographics section of the KOMS report. Interviews reveal that prior to the recent discovery of missed DNA samples, some supervisors were not reviewing all PSIs, specifically the demographics section of KOMS, to determine the DNA status. Some of the reasons provided by supervisors included increased responsibilities, time constraints, and not having knowledge of offender convictions or the PSI (the PSI was frequently routed to the judge without supervisor review in order to meet the court deadline).

As previously noted during the interviews with the PPOs/PPIs and supervisors, DNA collection was not specifically listed as a criteria on the



2009 through 2011 case audit review form, which was used by supervisors and assistant supervisors to evaluate and/or critique performance on assigned cases. The case audit form was revised in 2012 because DPP supervisors felt the previous form did not correctly rank and identify the important tasks required of the PPO/PPI. When asked about the case audit process and the fact that the old audit form did not identify DNA collection as a criterion, the branch managers agreed this was a mistake and someone should have corrected it prior to 2012.

Branch managers said the DOC has recently taken several steps to ensure the collection of DNA. These measures include:

- All PSIs must be approved by the supervisor and they are required to check the demographics section of the KOMS report for DNA status.
- If DNA has not been collected, the offender's name is placed on a list reflecting a DNA sample is required and the list is updated and forwarded daily to all districts.
- When an offender is released on parole, the institution is required to determine if DNA has been collected.
- When an absconder or probationer is picked up, PPOs are to determine if DNA has been collected.
- PPOs have been asked to document the status of DNA in the narrative section of the PSI, which allows for easy access to DNA status.

Branch managers agree some of these remedies could have been required from the beginning of the DNA sample collection process.

VANHOOSE, TURNER and the branch managers offered other suggestions on ways to improve DNA collection and accountability:

- Consideration should be given to requiring the arresting officer to obtain the DNA at the point of arrest, along with the collection of fingerprints and photographs.
- Someone within the court system should be designated to collect the DNA sample immediately upon conviction. This position could be established and funded through a grant or through the budgetary process.

- A PPO/PPI should be assigned to every circuit court rule day, which would provide DPP immediate information pertaining to offenders.
- The KOMS database should be fully funded and developed into a comprehensive, reliable, and easily accessible tool for identifying and verifying DNA collections.
- DOC and AOC should coordinate their efforts to ensure that all felony offenders are processed for DNA through the DPP.
- Judges should be made aware of their responsibility in DNA collection and the mandates of the legislation.
- Consideration should be given to routing all DNA collections through a supervisor or central location in the DPP, including tracking the rejected DNA samples, their re-collection and submission.
- Currently, DNA samples are sealed with no identifying information on the envelope, but in the future they could be tracked by documenting the Personal Identification (PID) number on the envelope. This would allow staff to verify the correct status is marked on the KOMS report, thereby alleviating lag time associated with DNA submission status reporting by the KSP Lab.
- There should be a collaborative effort between the DOC and the DPP whereby the DOC determines the DNA status of offenders when receiving or releasing the offender at the correctional facility, and if DNA collection has been missed, they should collect it.

The branch managers accepted a share of the responsibility for the DPP failure to obtain all the needed DNA samples. Some of their comments were, *“We just dropped the ball,”* and *“As it was a collaborative effort, it was a collaborative fail.”* Another comment was, *“I can give you a hundred reasons and or reasons why these happened. It was still our job.”*

All of the branch managers were surprised to learn the DPP had failed to collect a significant number of DNA samples as revealed by the July 25, 2013, press release. However, a previous email authored by TURNER appears to reflect missed DNA samples was a potential problem as early as April 18, 2012 (*see EXHIBIT 25*). Although TURNER does not supervise the branch



managers, on April 18, 2012, he makes the following request to the branch managers and copies Michael BOLCAS, who was serving as the DPP Assistant Director: *"As far as the other 8,625 that reflect not collected, the officers need to verify if the offenders DNA has not been collected or if KOMS needs to be updated. The officers can verify this by checking BEAST."* TURNER's request caused Renee MANESS to forward an April 23, 2012, email to her district supervisors, with copies to TURNER and BOLCAS, which read in part, *"Ok.... Please see below and start the process for review/corrections in your district. Please remind staff that they need to update KOMS in this section just as in every other section as they go." I will need to be notified, as well as Mr. Turner, when your district has completed the review and made corrections/updates."* On May 16, 2012, **Jarrold DORTCH**, District Supervisor, replied by email to TURNER and MANESS, writing, *"A conservative estimate is that we have about 50 more to collect. Of course we couldn't get the absconders so...Do you plan to run another report in the future?"*

Follow-up interviews concerning the email were conducted with three of the branch managers, TURNER and CARMEN. The interviews were recorded and will be maintained in the case file. A summary follows:

CARTER does not recall the email and believes she may have interpreted it as reflecting a problem with the KOMS report. She has searched her files and cannot locate or determine with certainty her response to the email. She believes she may have deleted the email. She did not forward the email to her supervisors for follow-up.

BARNES recalls the email and also thought the email was indicative of a problem with the KOMS report. He feels certain he forwarded the email to his supervisors and probably gave them a 30-45 day time frame to review. He cannot recall or find documentation pertaining to the results of his request or the details of the follow-up.

MANESS did not recall the email until she was recently contacted by VANMETER. She cannot recall her specific thoughts regarding the email but feels with her knowledge and history with the KOMS report, her initial thought would have been there was a problem with the KOMS report or the PPOs were failing to update KOMS. She feels certain she would have followed up with the district supervisors regarding her email to them wherein she asked for *"review/corrections in your district."* She believes she did not contact TURNER regarding the email.



TURNER could not recall the email but was able to retrieve it from his files. He also reviewed associated emails which could possibly help him determine the specific purpose for the email. He recalls he was interested in reducing the duplication of DNA collection due to the increased cost of the DNA test kits. His email to the branch managers and BOLCAS was in response to a report compiled by VANMETER, who prepared the report in response to a PPO's request for a comprehensive report which could determine DNA status. TURNER recalls questioning the accuracy of the report due to his comparison of the first 20 entries, which revealed the DNA sample had been collected but not updated in KOMS. He did not ask for feedback from the branch managers but felt he would receive a response.

CARMEN could not remember this specific email but remembers related conversations concerning the topic of DNA collection. He explained it was not unusual to receive an email pertaining to the issues of DNA collection and KOMS because VANMETER (who was copied on the email) would frequently send emails describing problems with KOMS. Additionally, the demographics screens in KOMS frequently seemed to have other issues or problems and the email could have been perceived as: DNA samples were not being collected, DNA status was not updated in KOMS, or KOMS was not allowing the update to be posted. If CARMEN forwarded the information in the email, he would have forwarded it to **Rodney BALLARD**, who was then serving as the Deputy Commissioner of the DOC. However, he cannot specifically recall forwarding the information to anyone.

On November 8, 2013, Commissioner LaDonna THOMPSON was interviewed. A summary follows:

When asked how she discovered the problem of missed DNA samples, she explained that one of the adult correctional institutions requested a report on DNA samples that were needed but not yet taken. She thought that was unusual because the DNA sample should have been taken by the DPP. She began to analyze KOMS reports and noted a significant difference between DNA samples collected when compared to the number of felony offender admissions.

She was not aware of the April 2012 email from TURNER to the DPP Branch Managers which referenced the DNA sample submission discrepancies between KOMS and BEAST. She was made aware of the email soon after it was provided to the OIG. In response, she asked her staff about their actions regarding the 2012 email and received similar answers received by the OIG.

When informed that current workload, coupled with insufficient manpower, were two of the most common reasons expressed by the DPP personnel for the failure to collect the required DNA samples, she disagreed. She indicated that although those may be the reasons voiced now, during the period from 2009 until the missed DNA samples were identified in 2013, no one from the DPP reported to her they did not have a sufficient number of PPOs/PPIs to collect all the required DNA samples. She recalled when additional personnel positions were needed elsewhere in DOC, the DPP offered to transfer six positions. She further explained that when 70 additional PPO/PPI positions were added due to the passage of House Bill 463 in 2011, DPP requested the positions be added slowly because the positions were not needed prior to the passage of the Bill.

When asked what she thought contributed to the failure to collect DNA, she cited the DPP was not responsive and did not hold people accountable.

#### ADDITIONAL DNA SAMPLES NOT COLLECTED:

The number of missed samples (6,341) announced in the July 25, 2013, press release was determined to be incomplete based upon further analysis and research by the DOC's Information Technology Branch and subsequent OIG interviews and meetings with representatives from AOC, KSP, and DOC.

The first analysis involved the comparison of AOC's convicted felon data to the DOC KOMS data, which revealed more DNA eligible felons in the AOC records than in KOMS. The second analysis involved the comparison of the DOC KOMS offender data with the KSP BEAST data, which revealed substantially more offenders requiring DNA collection were missing from the BEAST database (**EXHIBIT 26**).

#### Comparison of AOC Records with KOMS:

Felony conviction data from the AOC KYCourt case management system from 2009 through 2012 was requested for comparison with the number of convicted felons in KOMS.

Felony conviction data for the years 2010 thru 2012 was received from AOC which revealed approximately 61,551 felony offenders. Approximately 59,978 were entered in KOMS during this same time frame. A number of queries were run on the data to match the records, resulting in 2,186 offenders being identified as not being entered into KOMS. Approximately 76 of these offenders are duplicates resulting from one offender having two or more AOC case numbers.

The explanation for the first analysis and discrepancy was that defendants pleading guilty to felonies may have been released from court by judges without an order to collect DNA. Most



of these cases involve unsupervised offenders where the PSI was waived. The PPO/PPI may not have known the case was adjudicated because the offender was not ordered to contact the DPP and therefore not entered into KOMS.

Interviews with Circuit Court Clerks (CCCs) and AOC reveal some of the 2,186 offender records forwarded to the AOC may be inaccurate due to the Uniform Offense Report (UOR) code not being changed to reflect an amendment to a misdemeanor. From the list of 2,186 felony offenders, 637 cases were identified with the prefix "F" (adjudicated in district court and possibly amended to a misdemeanor). (Note; the best estimate is that less than 1,700 DNA eligible felons were not contacted by the DPP for the purpose of collecting DNA during the period 2010-2012.)

A sampling of 65 circuit court felony case records identified as convicted felons (after March 27, 2009) by AOC records were examined at three CCC offices. These offenders were not identified in KOMS and DNA was not collected. The review determined 42 of the 65 offenders had the felony charge reduced to a misdemeanor in district court and should not have been identified as felony offenders in the AOC records or KOMS, and therefore would not be required to provide a DNA sample. Ten case files confirm statements provided in the interviews with the DPP staff and field personnel pertaining to reasons why DNA may not have been collected. As suggested, these cases reveal the offender was placed on unsupervised probation and the PSI was waived, which resulted in the offender not having contact with the PPO or PPI. Six cases were of offenders who actually served time for their sentences. DPP, as well as DOC, would have been notified of these six convictions. One case indicates the offender was transferred to another county and one was probated to Drug Court.

CCCs and some of the office staff from Clark, Montgomery, and Scott Counties were interviewed. The interviews were summarized and are maintained in the case file. A summary follows:

The CCCs reported the PPO/PPI is normally present when guilty pleas are entered. Until recently, they had never heard a judge instruct the offender or their attorney regarding the responsibility to provide a DNA sample due to the requirements of HB 321. One CCC indicated the judges have recently started adding the following handwritten statements to the Judgment And Sentence On Plea Of Guilty, Form AOC 445, "*Pursuant to KRS 17.170, Def shall submit to DNA testing.*" When the PPO/PPI is not present, one of the judges advises the Commonwealth's Attorney to inform the DPP of the guilty plea.

All CCC's offices interviewed provide a mailbox in the clerk's office for the PPO/PPI. Two offices forward judgments and revocation orders to the PPO's/PPI's mailbox only on cases where the offender is placed on

supervised probation. One clerk interviewed forwards all judgments and revocation orders to the PPO's/PPI's mailbox on both supervised and unsupervised offenders. Two CCCs and office staff were not aware the PPO/PPI should also be notified when felony offenders are unsupervised by the DPP and are given probation/diversion. None of the CCCs interviewed had ever been informed by the DPP they should be notified on all felony convictions for the purpose of DNA collection. The CCCs did not perceive it as a problem to forward all felony convictions to the attention of the PPO/PPI.

The CCCs believe the presiding judge should direct all felony offenders upon sentencing to report to the DPP and provide a DNA sample, even when unsupervised by the DPP.

The CCC's office staff electronically submits felony and misdemeanor convictions to AOC via the KYCourt system. The UOR code reflects the type and nature of the offense. The recent cases reviewed by the OIG were identified as felony offenders in AOC records. Closer scrutiny of some these files by the CCCs revealed the UOR code was not changed from a felony when the conviction was amended to a misdemeanor in district court. All circuit court felony criminal records are identified with the prefix "CR". Cases adjudicated in district court are identified with the prefix "F". A case originating in district court will change to a "CR" case once the grand jury hears the case and returns an indictment. The CCC receives the indictment from the Commonwealth's Attorney's office or the presiding judge. The CCC's office cross-references the former "F" case number with the new "CR" case number in order to determine its origin. Occasionally, a felony case will be brought to circuit court as the result of information instead of the grand jury process. Cases routed to AOC from the CCC by the KYCourt system and identified as felonies rather than misdemeanors could potentially cause problems when conducting background checks. When a charge is amended to a misdemeanor, it requires the CCC's office to correct the UOR code. One CCC believes this problem may exist throughout the state, especially in larger court systems.

The Judgment And Sentence On Plea Of Guilty Form, AOC-445 (Rev 2-10), was reviewed on several of the felony offenders. The form specifically requires DNA collection related to sexual offenses under subsection C, but fails to provide instructions pertaining to the required DNA sample on all other felony offenders (*see EXHIBIT 11*). Copies of this form are provided to the defendant, the defendant's attorney, the prosecutor, the DPP, and the sheriff.

In addition, a form identified as DEPARTMENT OF CORRECTIONS DIVISION OF PROBATION AND PAROLE ORDER OF PROBATION was contained in several felony



offender files. This form provides the defendant instructions on the conditions of probation and shock probation and is signed by the presiding judge. This form does not address DNA collection (**EXHIBIT 27**).

Comparison of KOMS Records with BEAST:

A comparison of convicted felony offenders DOC identified as “new admissions” and who were entered into KOMS between March 27, 2009, and December 31, 2012, was made with offenders whose DNA samples had been entered into BEAST as of August 13, 2013. This comparison purposely excluded felony offender admissions in KOMS for eight months (January thru August 2013) in order to allow time for DNA submissions to be processed in BEAST. This query found that 17,194 offenders in KOMS had no corresponding record of a DNA sample having been entered into BEAST. Some of these offenders were found to have cases adjudicated as misdemeanors, leaving 16,038 felony offenders whose DNA had not been collected. This figure represents 23% of the 69,094 “new admissions” identified in KOMS for the period above.

The KOMS “DNA Sample Submission Status” for these 16,038 convicted felons without a DNA sample record in BEAST is shown in the following table.

DNA SAMPLE SUBMISSION STATUS APPEARING IN KOMS	COUNT	ADJUSTED FOR MISDEMEANORS	COMMENTS
Samples entered as <b>"Required, and has been Tested,"</b> but no corresponding record found in the KSP BEAST DNA database	9,690	9,690	Includes samples collected since the DNA was found to have been missed that were awaiting processing by the KSP Lab as of 8/13/2013 in addition to those marked as tested improperly.
Samples entered as <b>"Required, but Not Tested Yet"</b>	4,350	4,350	
Samples inadvertently entered incorrectly as <b>"Not Required"</b>	2,666	1,510	Further analysis of these records by DOC IT Branch revealed that some of these offenders had their cases adjudicated to misdemeanors.
Supervision of offender not required/or <b>"Pending Status"</b>	488	488	
<b>TOTAL:</b>	<b>17,194</b>	<b>16,038</b>	(Adjusted total)

As of November 26, 2013, DOC has collected 5,061 of the missed DNA samples.





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## FINDINGS

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### DNA Training and Implementation:

1. The DPP's DNA training phase appeared to be comprehensive. The KSP Lab provided the initial training for select DPP employees and train-the-trainer programs were established, resulting in each DPP district having two certified DNA trainers. Video and PowerPoint training modules were developed and available for review. PPOs/PPIs and supervisors practiced collecting DNA with swabs. A DPP representative was identified to respond to questions regarding DNA training. Employees responsible for collecting DNA were required to complete the Offender DNA Collection Training Program and become "authorized" in order to collect DNA. Samples would be rejected if not collected and submitted correctly or collected by an "unauthorized" employee in accordance with 502 KAR 32.010.
2. Implementation of the DNA collection responsibility appeared to be thorough. Unfortunately, because the original law was ruled unconstitutional, the implementation process was suspended and required revision after the passage of HB 321. This delay and revision created some confusion within the DPP. Management staff and field personnel had to be notified of the changes and requirements of the new law.
3. Newly hired DPP employees responsible for DNA collection were to be trained prior to their participation in the collection of DNA. There were instances when new hires did not take the required training for as many as five months after their start date. Some new employees began DNA collection duties even though they had not received the necessary training. Interviews and records reveal several DNA samples were rejected due to the collector not being "authorized." Recent turnover rates for PPOs/PPIs range from 11-15% annually, which increases the importance of promptly training new staff in the collection of DNA.
4. Selected employees in each adult prison institution were trained on DNA collection and were instructed to collect DNA from qualifying inmates released or paroled from the institution.
5. Several DNA samples were rejected by the KSP Lab for various reasons including lack of required fingerprints, incomplete paperwork, failure to follow proper submission procedures and not being authorized to collect. When rejected, the



collector was notified of those rejections and requested to re-collect a sample. However, the DPP had no written policy or supervisory oversight in place to track the return, re-collection, and resubmission of those samples. Some PPOs/PPIs reported a number of rejected samples were never re-collected.

6. Sufficient information and directives regarding the responsibility for DNA collections were forwarded to the responsible staff and field personnel. Specific instructions were provided on the collection, documentation, processing, and verification of DNA. While the implementation plan was thorough, there was a lack of sufficient controls, accountability measures, or a reliable database to ensure compliance with the plan.

#### Failure to Collect DNA:

7. While most PPOs/PPIs collected the vast majority of required DNA samples, several reasons caused collecting them from every eligible felony offender to be difficult, including an increase in other responsibilities. Tasks assigned to the DPP have grown significantly in recent years. In addition to the new responsibility of collecting DNA from offenders, some of the responsibilities identified as being significant and time-consuming aspects of their job are: preparing lengthy risk assessments using the Level of Services/Case Management Inventory program; ensuring DOC inmates are released from custody on time; supervising the Home Incarceration Program; Mandatory Reentry Supervision offenders; and Sex Offender Registry. The majority of the PPOs/PPIs agreed the offender to PPO/PPI ratio has decreased over the past several years; however, their responsibilities and workload have substantially increased.
8. Several thousand offender records were identified in KOMS as DNA “Required, but Not Tested Yet.” The most prevalent reason expressed by the DPP staff and field personnel for the failure to collect DNA was attributed to the fact that for various reasons, the PPO/PPI did not meet with the offender in person. Examples include:
  - Offender placed on pre-trial diversion by the court with no requirement for PSI
  - Offender in custody in another county or state, and PSI interview is conducted via telephone
  - Offender in restrictive or protective custody
9. DPP was not always made aware of felony cases where (1) the offender was placed on unsupervised probation, or (2) the PSI was waived. A review of circuit court records and follow-up interviews with three CCCs determined they were unaware the

DPP was required to collect DNA from all convicted felons. Two of them route judgments and offender information to the PPO/PPI only on offenders who require supervision or a PSI. (Note: Although these types of cases contributed to the failure to collect DNA, the vast majority of DNA samples missed involved offenders that were known to DPP)

10. Several other factors contributed to the failure to collect DNA:

- Lack of accountability and follow-up measures to ensure DNA collection
- Failure to follow directives
- No disciplinary action for not collecting DNA
- Employee performance evaluation criteria did not include DNA collection
- The database for tracking DNA was insufficient and unreliable
- A shortage of DNA kits and fingerprint pads existed at times
- Assumptions were made that someone else would collect the missed DNA (another PPO/PPI or correctional institution) with no follow-up and verification

11. No instances were identified where a PPO/PPI was disciplined because of failing to collect DNA. Some officers interpreted the lack of enforcement as a signal from management that DNA collection was one of their less important responsibilities. DPP staff and field personnel acknowledge that had the recently implemented DPP corrective measures existed when the DPP was first tasked with DNA collection, the failure to collect DNA would not have been as significant.

12. All of the reasons identified in this investigation for failing to collect DNA certainly complicated and hindered the DPP from collecting the required DNA samples. However, these reasons did not prevent the DPP from taking corrective action to address and improve the collection of DNA. Simply stated, some of the DNA collection was missed because its importance, priority, and opportunity for collection diminished with some of the DPP managers, supervisors, and PPOs/PPIs when several other significant responsibilities were added to the DPP. Understandably, DNA collection was never perceived as important as the PSI and offender supervision, but it was required by statute and has been proven to be a valuable crime solving tool.



Lack of DNA Accountability and Follow-up:

13. All branch managers interviewed expressed concerns about the failure of the DPP to collect the required DNA. They shared the same concerns of others who were interviewed, citing additional responsibilities placed on the DPP and manpower constraints as being a hindrance to collecting DNA. They believe no PPOs/PPIs purposely or maliciously avoided collecting DNA. They accepted their share of blame for the failure of the DPP to collect the required DNA. They described the training and implementation regarding DNA collection as very good but in hindsight, they believe the accountability measures and follow-up were inadequate.
14. Management's implementation plan and subsequent directives were to collect DNA during the PSI interview with the offender. After collection, the DNA collection status was to be noted in the PSI section of KOMS. Interviews revealed these instructions were oftentimes not followed. Some supervisors acknowledged they did not read/review each PSI or the demographics section of KOMS to determine the DNA collection status, and branch managers did not focus on or verify DNA collections. The vast majority of missed DNA involved known felony offenders who were identified in KOMS.
15. As previously noted, when the PSI was waived and/or the DPP did not supervise the offender, collecting DNA became problematic. These offender dispositions were not adequately addressed by DPP policy or procedure regarding the collection of DNA. Since these dispositions were not always made known to the PPO/PPI, they needed to take additional measures to contact the CCC and ask for documentation on all felony offenders in order to obtain the DNA samples. The majority of PPOs who were interviewed did not attempt to find out about unsupervised offenders if PSIs were waived and were not instructed to do so by their supervisor. Although DPP was aware that many CCCs were not notifying them of these types of felony offenses, it appears the DPP did not make any effort to notify the CCC offices to correct the misunderstanding. CCCs interviewed indicated a willingness to provide copies of all felony judgments to PPOs.
16. One of the first indications of a potential problem of missed DNA or with KOMS, or both, was revealed and shared with all the branch managers and the DPP assistant director via an email from Steve TURNER a year earlier, on April 18, 2012. The email referenced an attachment with a list of approximately 8,600 offenders whose DNA status was "Required, But Not Yet Tested" in KOMS. The first paragraph of the email appears to indicate there could be a problem with KOMS due to the



demographics screen not being updated. However, the third paragraph specifically states, *“The officers need to verify if the offenders DNA has not been collected or if KOMS needs to be updated.”* One of the branch managers felt she misunderstood the intent of the email. Some of the branch managers believed they took action in response to the email, but only one response was discovered. Insufficient research and/or scrutiny was completed in response to the email in order to discover the looming problem with DNA collections.

17. Recent corrective action/accountability measures implemented by DOC serve as the best indicator of the previous absence of control and accountability. Currently, all PSIs must be approved by the supervisor. In addition, supervisors are required to check the demographics section of the KOMS report for DNA collection status. A list of all required DNA collections is updated and forwarded to all supervisors daily.
18. While most PPOs/PPIs carry out their responsibilities effectively and with dedication to the job, the investigation did reveal a few PPOs/PPIs who repeatedly failed to perform their DNA collection duty. There were six PPOs/PPIs who failed to collect more than 80 samples and indicated in KOMS that DNA was “Required, but Not Tested Yet.” There were four PPOs/PPIs who marked more than 80 samples as “Required and Has Been Tested;” however, the samples did not appear in KSP’s DNA database. One PPO acknowledged he probably only collected 20 percent of the required DNA samples.

Additional DNA Missed:

19. In May 2013, DOC Commissioner THOMPSON became aware that KOMS reflected DNA samples may not have been collected from a significant number of felony offenders. Initial analysis indicated approximately 6,341 convicted felons had not provided DNA samples as required by law. The DOC Information Technology Branch conducted further analysis and identified nearly 2,100 additional offenders in the KOMS records who were identified as DNA “Required, but Not Tested Yet,” bringing the total number of missed DNA samples being actively tracked by the DPP for collection to 8,476. As of November 26, 2013, DOC has collected 5,061 of the missed samples since the problem was identified.
20. In an attempt to confirm that all missed DNA had been identified, DOC IT staff performed a data match comparing the 69,094 offenders added to KOMS from March 27, 2009 through December 31, 2012, to the KSP BEAST database. A total of 51,900 offenders were identified in the KSP BEAST database as of August 13, 2013. This

comparison purposely excluded felony offenders admissions in KOMS for eight months (January thru August 2013) in order to allow time for DNA submissions to be processed in Beast. The match identified 17,194 offenders in KOMS whose DNA was not recorded in BEAST. Further research determined approximately 1,100 of these cases appear to have been adjudicated as misdemeanor offenses resulting in 16,038 felony offenders under the DPP's supervision whose DNA had not been submitted to BEAST.

21. Of the discrepancies identified above between KOMS and BEAST, there were 9,690 DNA records marked as "Required and has been Tested". Some of these records may represent DNA samples awaiting input into the BEAST system database at the KSP Lab. However, at least a few thousand of these records may represent that the PPOs/PPIs misrepresented in KOMS the sample had been collected, the record was marked as taken by mistake, or the sample was lost prior to testing by the KSP Lab. The PPO with the largest number of these discrepancies was interviewed and acknowledged he may have marked in KOMS that DNA samples had been taken based simply on asking the offenders if they had previously provided a DNA sample. The PPO would then fabricate a date to enter in KOMS and change the DNA status to reflect "Required and has been Tested." He also indicated he may have changed the DNA status to reflect collected if he had intentions of getting the DNA later. Another PPO with a significant number of discrepancies reported she had difficulty utilizing the drop down boxes in KOMS and may have repeatedly marked the wrong box.
22. Another discrepancy was 2,666 offender records in KOMS were marked as "not required" by PPOs/PPIs, but based on a preliminary analysis of the offender record by the DOC IT staff, that offender's conviction required a DNA sample. Some of these KOMS records were either inadvertently or improperly marked as "not required." Further in-depth analysis of these records revealed that some of these records were adjudicated as misdemeanors and marked correctly. These records will have to be analyzed individually in order to determine which ones were marked incorrectly and still require DNA samples to be collected. Current analysis estimates there are approximately 1,500 felony offenders which may need DNA collected in this category.
23. In addition to the 16,000 offenders in KOMS whose DNA had not been collected, the DOC reported a concern that there may be a significant number of felons who never had contact with the DPP due to plea arrangements which waived the PSI and/or offender supervision was not required, resulting in the offender not being in the KOMS database. In an effort to determine an approximate number of offenders who





may fall into this category and to further research missed DNA, several meetings were held with the staff from the AOC, the KSP, the DOC, and the OIG.

The AOC provided data to the DOC identifying all felony convictions from 2010-2012. That list was compared to KOMS data, and 2,186 offender records were not in KOMS. Further analysis of those records determined the AOC records included approximately 76 duplicates due to multiple case numbers or multiple names for the same individual. The records also included several hundred felonies that were ultimately adjudicated as misdemeanors, and the UOR code was not changed by the CCCs office prior to submission to the AOC. Cases adjudicated as misdemeanors will not require DNA collection. Based on a sample of records reviewed, the number of felony offenders identified in AOC records for 2010-2012 that may need to be entered into KOMS and have DNA samples collected by DPP is approximately 1,700.

As stated above, the investigation revealed that as many as a few hundred or less than one percent of the AOC records during the period 2010-2012 may indicate an offender is guilty of a felony when the case was adjudicated as a misdemeanor because the UOR code was not changed by the CCCs office when submitting the record to the KYCourts system database. AOC is responsible for providing criminal background information upon request, and if this database is used as the sole source for background checks, misinformation could be distributed.

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## RECOMMENDATIONS

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1. The DOC should ensure newly hired PPOs/PPIs receive training on DNA sample collection shortly after their employment begins in order to maximize the number of personnel eligible to collect DNA and prevent rejections from the KSP lab for unauthorized collections.
2. The DOC should track DNA samples rejected by the KSP lab in order to identify any discernible DNA sample submission issues including personnel that may require remedial training or corrective action.
3. Consideration should be given to providing the necessary resources and funding to develop KOMS into a dependable resource for the verification of offender and DNA information. Reports should be developed to facilitate monitoring of critical duties. In response to the current problem of tracking DNA collections, the DOC IT staff has developed a proposal entitled “Proposed Process Improvement for DNA Collections,” which addresses many of the technology weaknesses (**EXHIBIT 28**).
4. The DOC, in conjunction with the KSP Lab, should consider allowing the DPP access to BEAST for the purpose of entering DNA “samples submitted.” This data would be identified as Pre-Log DNA. If KOMS data has been verified, this could also be accomplished through an interface between the two systems; however, this would require KOMS system enhancements. This would provide access to current information on DNA submissions, allow tracking of any DNA samples that are not received by the KSP Lab, and eliminate the initial “log in step” data entry required by the KSP Lab. The system should allow all appropriate DPP staff to query the data to determine if a sample has been submitted and its status regarding receipt and processing.
5. The DOC should require supervisory or independent verification of all collection, re-collection, and submission of DNA samples to ensure accuracy and independence of the data entry process. The DNA kits should have the PID number or other tracking mechanism affixed to the outside of the envelope. The DNA sample should be entered or verified in KOMS by the DPP supervisor or designee.



6. Consideration should be given to improving the “DNA Test Status” data entry in KOMS. If the drop-down boxes are found to be difficult to use, modifications to the screen should be made to improve accuracy. DNA test status options that are no longer applicable should be removed. Accountability tools should be considered to improve the integrity of the data entry including required fields and error messages for omitted fields. The system could send reminders to supervisors for follow-up when records reflect DNA is still needed 30 days after the record is created. Managers could be notified if DNA samples have not been collected within 60 days.
7. Consideration should be given to providing field staff with tablets/laptops and remote Internet access for immediate access to all databases and required reports, allowing for DNA status to be entered or verified during or following interviews with offenders.
8. The investigation determined the DOC was not always aware of felony offender convictions requiring DNA. One of the best sources for obtaining accurate offender convictions is maintained in the CCC’s office and is identified as AOC-445, Judgment And Sentence On Plea Of Guilty. For the multipurpose of DOC notification, supervisor/PPO/PPI accountability, and accurate offender convictions, consideration should be given to pursuing an arrangement with the CCCs to forward a copy of all felony offender judgments to the appropriate DPP district office on a monthly or as needed basis. The information would be in addition to providing offender judgments to the PPO/PPI who serves that jurisdiction.
9. The DOC should communicate the requirement that DNA samples be collected from all felony offenders to all agencies who share in this responsibility, including judges, circuit court clerks, commonwealth attorneys and county attorneys. The requirements of KRS 17.170 could be communicated through various forms of correspondence and presentations.
10. The DOC should recommend to AOC that the two forms used in the adjudication of felony offenders be revised to include a clear directive to convicted felony offenders to report to the DPP and provide a DNA sample in accordance with KRS 17.170. These forms are identified as: Form AOC-445, Judgment And Sentence On Plea Of Guilty, and AOC-345, Order Granting Pretrial Diversion Of A Class D Felony. AOC-445 specifically orders the offender to provide a sample of blood to the DOC on sexual offenses pursuant to KRS 17.170, but it does not address the DNA requirement from all other convicted felony offenders. The DOC should also consider revising



DOC form Department of Corrections Division of Probation and Parole Order of Probation, and inserting language for the same purpose.

11. The DOC should maintain an adequate inventory of DNA kits. The inventory process should include policies/procedures on periodic inventory counts at central and district offices, distribution of DNA kits, procedures for ordering kits from the KSP, and processes for transferring kits between districts if needed.
12. The DOC should confirm the offender's DNA status in KOMS and BEAST for every institutional admission and release.
13. The DOC should revise case/investigation audits and evaluation tools pertaining to DNA collections, reflecting the importance and value that is commensurate with the fact it is a duty required by statute.
14. In light of the determination that some PPOs/PPIs failed to perform essential job duties and some supervisor/managers failed to identify and correct these deficiencies, consideration should be given to providing additional management training with emphasis on accountability, documentation of poor performance, and corrective action when required.
15. The legislature should again consider requiring DNA collection at arrest in order to get DNA samples into the database sooner, making the data available for law enforcement evidence analysis. This change would provide for a more current DNA database by eliminating the lag time between arrest and conviction. Understanding that requiring DNA collection at arrest will not eliminate missed DNA, DOC would be responsible to collect any DNA samples missed at arrest.
16. The importance of a reliable and current DNA database for detecting or eliminating suspects in a crime cannot be overstated; therefore, an independent workload assessment of the current job responsibilities of the DPP, and specifically the PPO/PPI positions, should be completed and steps taken to increase the manpower if warranted. Equally important is ensuring the efficient processing of DNA samples in order to provide law enforcement with a DNA database that is current and maintains all required felony offender DNA samples; therefore, the KSP Lab DNA Testing Section should consider evaluating the DNA submission process to identify if additional resources are needed or if the DNA sample submission process can be improved to reduce the backlog. DNA sample processing delays should not be the reason a criminal is undetected or an innocent person is eliminated as a suspect.

17. The Secretary of the Justice and Public Safety Cabinet should coordinate follow-up meetings with the Commissioner of DOC to monitor the DPP's progress toward collecting the missed DNA samples. The meetings should also include an evaluation of the remedial action taken by DOC and its impact on improving the DNA sample collection and submission process.

Respectfully Submitted,



Cindy James, Inspector General  
Office of Inspector General  
Kentucky Transportation Cabinet

11/27/2013  
Date